



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.09.2018
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) No.1190 of 2016

WEB COPY

Perumalsamy

.. Petitioner /1st Defendant /
Petitioner

Vs.

1.Seetharaman

2.Alagarsamy

.. Respondents 1 &2/
Plaintiffs/Respondents

3.Sridhar

4.Venkataprabha @ Sujithra

5.Ponnu Naicker

6.Gengammal

7.Jeyaram

8.Subburam

9.Dhamodharan

10.Indhurani

11.Sreedhanalakshmi

12.Umarani

.. Respondents 3 to 12/
Defendants 2 to 13/
Respondents 3 to 13

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and executable order passed in I.A.No.74 of 2016 in O.S.No.49 of 2004 dated 20.04.2016 on the file of the Principal District Court, Virudhunagar District at Srivilliputhur.

For Petitioner : Mr.S.Chandrasekaran
For Respondent Nos. 1& 2 : Mr.S.Jawahar
For Respondent Nos.3 to 12 : given up

ORDER

The first defendant in O.S.No.49 of 2004 on the file of the learned Principal District Judge, Virudhunagar is the revision petitioner herein. It is a suit for specific performance. The revision petitioner filed I.A.No.74 of 2016 for comparing the signature attributed to the first defendant for expert opinion. The Court below by order dated 20.04.2016 dismissed the IA on the ground that it is belated in nature. Questioning the correctness of the same, the Civil Revision Petition has been filed.



2. Heard the learned counsel on either side.

3. It is true that the Court below has chose to dismiss the revision petitioner's IA only for two reasons. The first reason is that the revision petitioner did not take any steps for the last 17 years and the second reason is that the Court itself can compare the signature and come to a decision by exercising jurisdiction under Section 73 of the Indian Evidence Act.

4. I am of the view that the second reason is not sound. It has been held in so many cases that eventhough the Court has jurisdiction under Section 73 of the Indian Evidence Act, to compare the disputed signature with the admitted one, it would be a dangerous exercise. The revision petitioner as the defendant had denied the petitioner's signature in the sale agreement and taken a specific stand that it is a forged one. Therefore, the entire burden lies on the plaintiffs. If the plaintiffs have not taken any steps for obtaining expert opinion, they will have to necessarily take the consequences.

5. With these observations, the dismissal of the IA is confirmed. The Civil Revision Petition is disposed of accordingly. No Costs.

6. Since the suit is of the year 1998, the Court below is directed to dispose of the same within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(AD-I)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Principal District Court,
Virudhunagar District at Srivilliputhur.

2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(2 copies)**

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PJL

ES/SKN/RSK/SAR 2/16.10.2018/2P/4C